

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION FOR APPROVAL FOR THE)	
ISSUANCE OF SHARES OF PREFERRED)	CASE NO.
STOCK AND SENIOR DISCOUNT NOTES)	97-310
BY INTERMEDIA COMMUNICATIONS, INC.)	

O R D E R

On July 9, 1997, Intermedia Communications, Inc. ("ICI") applied for authority to issue 1.7 million shares of preferred stock with a par value of \$1.00 per share. The application was filed pursuant to KRS 278.300. ICI is authorized to provide local exchange service in Kentucky.

By letter dated July 24, 1997, ICI was notified its filing was deficient and therefore rejected pursuant to 807 KAR 5:001, Section 2. On August 19, 1997, ICI filed a petition requesting permission to deviate from the filing requirements.

In Administrative Case No. 273,¹ the Commission established dominant and non-dominant carrier classifications for telecommunications providers in Kentucky. Non-dominant carriers were allowed relaxed regulation based on their lack of market power. In Administrative Case No. 323,² the Commission declared that all telecommunications utilities except local exchange carriers and AT&T Communications of the South Central

¹ Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

² Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

States, Inc. did not have substantial market share and could not exert pricing power and therefore were non-dominant. Non-dominant carriers were relieved of compliance with specific regulations unless otherwise ordered by the Commission.³

Although the decisions in the aforementioned proceedings did not extend to competition in the local exchange market, the Commission finds that telecommunications carriers in that market not possessing market power and the ability to exert pricing power should be considered non-dominant at this time. Another measure of market dominance is control of "bottleneck facilities" which is not exercised by ICI. Finally, many of the regulations in question have relevance only to carriers subject to rate of return regulations. ICI's rates are not subject to rate of return regulation.

Administrative Regulation 807 KAR 5:001, Section 14, provides the Commission with the authority to permit deviations from its regulations for good cause shown. Therefore, based upon ICI's application and Commission decisions as discussed above, ICI will be permitted to deviate from certain filing requirements. However, ICI will be required to comply with 807 KAR 5:001, Section 11(1)(b) and (c), which requires disclosure of the amount and kind of stock to be issued and the use of the proceeds from the stock sale. ICI will also be required to comply with 807 KAR 5:001, Section 8(3), which requires submission of a certified copy of Articles of Incorporation or reference to such filing in a previous case before the Commission.

³ Administrative Case No. 323, Order dated May 6, 1991, pages 55-56.

IT IS THEREFORE ORDERED that:


1. ICI's petition to deviate from the requirements of 807 KAR 5:001, Section 6, Section 11(1)(a) and (1)(d), and Section 11(2)(b) and (2)(c), is granted.
2. ICI's petition to deviate from the requirements of 807 KAR 5:001, Section 11(1)(b) and (1)(c), and Section 8(3), is denied.
3. Within 15 days from the date of this Order, ICI shall submit the information required by 807 KAR 5:001, Section 11(1)(b) and (1)(c), and Section 8(3). If said information is not filed within such time, ICI's filing shall be rejected and this case dismissed without further Order of the Commission.

Done at Frankfort, Kentucky, this 11th day of September, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director